

**FILED**

Clerk of the Superior Court

APR 16 2012

By: L. ARTHUR, Deputy

**Superior Court of the State of California**  
**County of San Diego, North County Division**

RANCHO GUEJITO CORPORATION, Case No. 37-2012-00051611-CU-PT-NC  
Petitioner,

vs.

**DECISION AFTER EVIDENTIARY HEARING  
ON PETITION FOR WORKPLACE  
VIOLENCE RESTRAINING ORDERS**

Respondent.

On April 11, 2012, the Court conducted an evidentiary hearing on Rancho Guejito Corporation's petition for workplace violence restraining orders. The evidentiary hearing was conducted in Dept. N-29, Judge Robert P. Dahlquist presiding. Petitioner Rancho Guejito Corporation was represented at the hearing by its counsel, Gregory C. Kane. Respondent [REDACTED] was present at the hearing, and was represented by his counsel, Steven P. McDonald. At the hearing, the Court heard testimony and received declarations and exhibits into evidence. At the conclusion of the hearing, the Court took the matter under submission.

The Court has carefully considered the evidence presented at the hearing, and is now prepared to render its decision.

1 The Court has determined that the legal requirements for issuance of a workplace  
2 violence restraining order have been satisfied in this case, and that a workplace violence  
3 restraining order should issue.

4 The relevant portion of Code of Civil Procedure section 527.8, subs. (j) provides: "If  
5 the judge finds by clear and convincing evidence that the respondent engaged in unlawful  
6 violence or made a credible threat of violence, an injunction shall issue prohibiting further  
7 unlawful violence or threats of violence."

8 In this case, the Court finds that respondent [REDACTED] engaged in  
9 unlawful violence. One act of unlawful violence occurred on December 2, 2011, when [REDACTED]  
10 went to the fenced-in property of Rancho Guejito Corporation ("Rancho Guejito"), obtained  
11 entry to property by subterfuge and then tried to force his way inside Rancho Guejito's offices.  
12 (Declaration of Jacqueline Soto, attached to Petition for Workplace Violence Restraining  
13 Orders, filed March 5, 2012)

14 The Court further finds that [REDACTED] made a credible threat of violence. "Credible threat  
15 of violence" is defined to include a "course of conduct that would place a reasonable person in  
16 fear for his or her safety, or the safety of his or her immediate family, and that serves no  
17 legitimate purpose." Code of Civil Procedure section 527.8, subs. (b)(2). "Course of conduct"  
18 is a pattern of conduct composed of a series of acts over a period of time, however short,  
19 evidencing a continuity of purpose, including following or stalking an employee to or from the  
20 place of work; entering the workplace; following an employee during hours of employment;  
21 making telephone calls to an employee; or sending correspondence to an employee by any  
22 means, including, but not limited to, the use of the public or private mails, interoffice mail, fax,  
23 or computer e-mail." Code of Civil Procedure section 527.8, subs. (b)(1).

24 [REDACTED] was previously an independent consultant for Rancho Guejito. [REDACTED]  
25 provided professional rangeland management services to Rancho Guejito in 2006. He was  
26 terminated as a consultant to Rancho Guejito Corporation sometime prior to 2011. After he  
27 was terminated, he arranged a meeting with Rancho Guejito Chief Operating Officer Hank  
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1 Rupp and Rupp's assistant, Sheryl Barnett. The meeting was held at an off-site restaurant.  
2 At the meeting, [REDACTED] requested payment of more than \$300,000 for services and work  
3 product. [REDACTED] prior services had been rendered under written agreements calling for  
4 payments in the range of \$4,000 to \$12,000.) Rupp did not agree to pay [REDACTED]  
5 became very angry and made statements that were considered by Rupp and Barnett to be  
6 threatening. For example, [REDACTED] said words to the effect that "It would be a lot better if I  
7 were your friend rather than your enemy." When Rupp asked for clarification, Perdue said  
8 words to the effect of "you'll see." In the overall context of the circumstances, these  
9 statements reasonably caused Rupp and Barnett to fear for their safety.

10 After the meeting, [REDACTED] was directed by Rancho Guejito to have no further contact  
11 with Rancho Guejito personnel but instead to direct all further communications to Rancho  
12 Guejito's outside attorney. [REDACTED] did not follow this directive. He continued to contact  
13 Rancho Guejito personnel by telephone, e-mail and in person. When Rancho Guejito blocked  
14 emails from [REDACTED] regular e-mail account, [REDACTED] changed his e-mail address and  
15 continued to send e-mail to Rancho Guejito personnel.

16 It was in this context that [REDACTED] went to the Rancho Guejito property on December 2,  
17 2011. The property is fenced and secured. [REDACTED] parked his car out of sight behind some  
18 vegetation and approached the driveway gate on foot. Using subterfuge, he persuaded a  
19 staff member, Jacqueline Soto, to open the gate. He then walked onto the property. He was  
20 met by Soto outside of the office building. Soto did not know him. Perdue asked to see  
21 Barnett. Soto moved toward the office building, and [REDACTED] followed. Barnett saw some of  
22 these events from her window, and partially opened the office door to identify [REDACTED] to Soto  
23 and to tell [REDACTED] that she would not meet with him. Soto went inside the building. [REDACTED]  
24 followed her, and according to Soto, "tried to force his way inside the office." (Soto  
25 Declaration at paragraph 4) However, Barnett managed to close and lock the door. [REDACTED]  
26 then left the property.  
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1 [REDACTED] returned to Rancho Guejito's property on two subsequent occasions to retrieve  
2 certain items of personal property that he claimed belonged to him. On both subsequent  
3 occasions, confrontations between Perdue and Rancho Guejito's security officers occurred.  
4 At the hearing conducted on April 11, 2012, the parties presented significantly varying  
5 versions of these confrontations. The Court does not believe it is necessary to determine the  
6 exact sequence of events in each of these confrontations. The Court is satisfied that on each  
7 occasion, [REDACTED] was needlessly aggressive and confrontational. In the context of the totality  
8 of the circumstances (including the meeting at the restaurant, [REDACTED] failure to honor  
9 Rancho Guejito's requests for Perdue to communicate only with Rancho Guejito's counsel,  
10 and the confrontation at Rancho Guejito's offices on December 2), [REDACTED] conduct would  
11 be alarming to a reasonable person. His conduct "would place a reasonable person in fear  
12 for his or her safety." Code of Civil Procedure section 527.8, subs. (b)(2).

13 The Court has not summarized in this written decision all of the evidence presented at  
14 the April 11, 2012 hearing. Instead, the Court has briefly summarized enough of the evidence  
15 to illustrate some of the reasons for the Court's findings that [REDACTED] engaged in unlawful  
16 violence and made a credible threat of violence, as those terms are defined by Code of Civil  
17 Procedure section 527.8.

18 Under controlling appellate authority, "CCP §527.8(j) must be read to include the  
19 requirement that the petitioner show that great or irreparable harm is likely to occur absent the  
20 injunction because the petitioner is required to make such a showing under CCP §527.8(e) to  
21 obtain a TRO." California Judges Benchguide, Injunctions Prohibiting Civil Harassment and  
22 Workplace/Postsecondary School Violence §20.41 citing *Scripps Health v. Marin* (1999) 72  
23 Cal.App.4<sup>th</sup> 324, 334 -335. However, "[a] single threat of violence may be sufficient to  
24 establish a likelihood of future harm." *Id.* citing *City of San Jose v. Garbett* (2010) 190  
25 Cal.App.4<sup>th</sup> 526, 542 - 543.

26 In this case, the Court finds that great or irreparable harm is likely to occur in the  
27 absence of a workplace violence restraining order because [REDACTED] has demonstrated a  
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1 history of alarming conduct, including the making of threats, gaining access to Rancho  
2 Guejito's property by deception, attempting to force his way into Rancho Guejito's offices,  
3 disregarding directives to have no contact with Rancho Guejito personnel, changing e-mail  
4 addresses to avoid Rancho Guejito's electronic blocking of unwanted e-mails, and  
5 confrontations with Rancho Guejito's security officers. Under the totality of the circumstances  
6 of this case, it is reasonable to conclude that there is a high likelihood of future harm if a  
7 restraining order is not issued.

8 The Court notes that [REDACTED] version of events is somewhat different from those of  
9 the Rancho Guejito witnesses. Neither side's version of events is entirely credible in every  
10 respect but, on balance, Perdue's version of events is less credible than the Rancho Guejito  
11 witnesses, particularly as to the events of December 2, 2011, when [REDACTED] gained access to  
12 Rancho Guejito's property by subterfuge and then tried to force his way into the Rancho  
13 Guejito offices.

14 In opposing the issuance of a restraining order, [REDACTED] argues that Rancho Guejito  
15 has sought the issuance of a restraining order in order to prevent [REDACTED] from exercising his  
16 constitutionally-protected right of free speech and right to petition the government for redress  
17 of grievances. It is true that some of the actions taken by [REDACTED] after the October 2011  
18 restaurant meeting are constitutionally protected activities. However, the Court is not relying  
19 on any of those activities as a basis for issuing the restraining order, and the restraining order  
20 will have no impact on [REDACTED] constitutionally-protected activities. [REDACTED] is free to talk to  
21 the press; he is free to convey information to governmental agencies; and he is free to petition  
22 the government for redress. But he is not free to trespass onto Rancho Guejito's property or  
23 to harass Rancho Guejito's personnel.

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The Court will issue the Workplace Violence Restraining Order After Hearing on the  
Judicial Council form.

DATED: April 16, 2012

Robert P. Dahlquist  
Robert P. Dahlquist  
Judge of the Superior Court